IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 3204 OF 1991
ALONGWITH
WRIT PETITION NOS. 3356/91, 963/96, 1833/97 & 3408/93

WITH
CIVIL APPLICATION NOS. 1635 & 1636 of 2004

Khandu Mahadu Baste .... Petitioner

versus

The Chairman of Maharashtra
Nomadic Tribes & Vimukta Jati Sagh
and others ..... Respondent.

Shri D.K.Ghaisas for the petitioner
Shri A.P.Vanarse AGP for Respondent no.2.

CORAM; A.P. DESHPANDE, J.
DATED; 5TH APRIL, 2007

P.C.;

1. Writ Petition No.3204 of 1991 is filed by Khandu Mahadu Baste taking an exception to the order passed by the tribunal dated 30-4-1991, which in turn goes to set aside the order of termination and grants reinstatement but proceeds tohold that the petitioner is not a trained teacher and that he should acquire necessary training qualification within a stipulated period. The petitioner is also aggrieved on account of grant of 50% backwages and by denial of rest of the 50% backwages.

2. Writ petition No. 3356 of 1991 is filed by the society which administers Post Basic Ashram Shala wherein petitioner in W.P. No.3204/91 is appointed as an Assistant teacher. In this petition, the order under challenge is the same as is under challenge in W.P. No. 3204 of 1991. This petition has been filed by the management challenging the legality and proprietary of the order passed by the tribunal granting reinstatement and 50% backwages.

3. Writ Petition No.963 of 1996 is filed by Tulsiram Bhikaji Khairnar challenging the judgment and order passed by the School tribunal in appeal No. 19 of 1995 dated 19-1-1996 filed by Khandu Madhu Baste wherein order of termination was challenged which termination was effected as the petitioner in W.P.No.3204 of 1991 failed to acquire training qualification within the stipulated time. Allowing the said appeal the tribunal has held that the appellant is well qualified and eligible person to teach in Post Basic Ashram school. Tulshiram Khairnar is the person holding the post of Head Master and he has filed the said writ petition no.963 of 1996.

4. Writ Petition No.1833 of 1997 is filed by Khandu Mahadu Baste challenging the judgment and order passed

by the School tribunal dated 21-1-1997. This Appeal was filed making a greivance in regard to supersetion of claim while granting promotion to the post of Head by appointing Tulshiram Khairnagar. The Tribunal has held that though the appellant is qualified for being appointed as an Assistant teacher he is not eligibel to be considered for the post of Head Master. As the tribunal has held that though the petitioner viz. Khandu Baste is qualified and eligible to teach the post basic Ashram Shala classes, is not eligible to claim promotional post of Head Master. What is relevant is that the school tribunal has held that the qualification of diploma in higher education is the requisite qualification required to be possessed by secondary school teacher and the same is equivalent to qualification of B.Ed. The said finding gain support from the observations made by the Division Bench of this court in its judgment dated 18-12-1997 while disposing of the writ Petition no.2751 of 1992. The Division Bench in the judgment referred to hereinabove was considering the same issue, i.e. whether the diploma in higher education is prescribed qualification or the qualification equivalent to the one prescribed under schedule B of the MEPS rules. Considering the said issue the Division Bench has observed thus:

> "He is M.Sc. (second class) with diploma in Higher Education. Schedule B 2 (1)(i) and (rule) 6 permits the Government to recognise diploma equivalent to B.Ed. degree. The Government vide its Resolution dated 18-8-1975 recognised the diploma of the respondent no.1 equivalent to B.Ed. degree course. The School tribunal has given cogent and sound reasons while passing the impugned order."

5. In view of the decision of the tribunal so also the observations made by the Division Bench, the parties have resolved the dispute in all the four petitions and the learned counsel appearing for the respective parties have placed on record the consent terms and a joint prayer is made for disposal of the writ petition in consent terms. It is agreed that Khandu Mahadu Baste petitioner in W.P.3204 of 1991 shall be treated as a trained teacher right since the date of his initial appointment. He has given up his claim for backwages.

6. The society has agreed not to press writ petition No.3356 of 1991. The learned counsel appearing for the petitioner in W.P. No. 963/96 makes a statement that the said writ petition is not being pressed as is agreed under clause No.IV, though the consent terms

are not signed by the petitioner in W.P.No.963/96. It is then agreed that after retirement of Khairnar present Head Master of the Post basic Ashram school, Khandu Mahadu Baste will be appointed as Head Master of the Secondary Ashram school. It is lastly agreed that as Khandu Mahadu Baste is a trained teacher, he would be entitled to claim salary as a trained teacher. Having regard to the controversy involved in the writ petition, I am of the view that the compromise arrived at by the parties is just and fair besides being legal. Hence writ petitions No.3204/91 and 3356/91 stand disposed of in consent terms. Writ Petitions nos. 3356/91 and 963/96 stand dismissed as not pressed.

7. The learned counsel for the petitioner submits that the petitioner in the first writ petition no. 3204 of 1991 will make a representation to the District Social Welfare officer seeking approval as trained teacher. The learned counsel submits that the said representation will be made within four weeks from today. I direct that the District Social Welfare officer shall pass appropriate orders in accordance with the law on the representation within a period of eight weeks from the date of receipt of the representation to be made by the petitioner.

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